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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

Amendment of Parts 2, 15, 18 and )  
Other Parts of the Commission's ) ET Docket No. 97-94  
Rules to Simplify and Streamline )  
the Equipment Authorization )  
Process for Radio Frequency )  
Equipment )

To: The Commission

COMMENTS  
OF  
METRICOM, INC.

Metricom, Inc. ("Metricom"), by its attorneys, hereby submits these Comments in response to the Notice of Proposed Rule Making released March 27, 1997,<sup>1/</sup> in the above-referenced proceeding. Metricom agrees in principle with the Commission's proposal to streamline the equipment authorization process, but disagrees with the methods the Commission has proposed to effectuate such streamlining. The Commission can effectively streamline the equipment authorization procedures to make them less burdensome without the need to remove itself from the authorization process.

The proposal to streamline the equipment authorization process presents a dilemma: on the one hand, as an equipment manufacturer, Metricom would certainly prefer a simpler and more expeditious equipment authorization process; on the other hand, however, a simple process will enable some equipment manufacturers, who are

<sup>1/</sup> 62 Fed. Reg. 24383 (May 5, 1997).

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not familiar with the applicable rules, to put nonconforming equipment into the market. This nonconforming equipment would cause harmful interference to other users in the same, and adjacent, frequency bands. Consequently, on balance, Metricom would rather continue to adhere to the Commission's existing procedures requiring Commission approval prior to making the equipment commercially available than endure harmful interference from equipment whose manufacturers improperly certify that their equipment complies with the Commission's rules.

**I. INTRODUCTION AND BACKGROUND**

1. Metricom is a young, rapidly growing, wireless telecommunications company based in California's Silicon Valley. Metricom is a pioneer in the development of state-of-the-art, spread spectrum, unlicensed data communications systems operating under Part 15 of the Commission's Rules and Regulations in the 902-928 MHz frequency band. Metricom has had a significant amount of experience with the Commission's equipment authorization process in obtaining certification for its own equipment. Although this process can sometimes be time consuming, Metricom recognizes the importance of ensuring that equipment does not cause harmful interference. The Commission is in the best position to ensure that harmful interference will not occur by reviewing applications for compliance with the Commission's rules before allowing the equipment to enter the marketplace.

**II. THE COMMISSION SHOULD NOT INCREASE THE TYPES  
OF EQUIPMENT SUBJECT TO SELF-CERTIFICATION**

2. In the Notice, the Commission proposes, inter alia, to delete the notification procedure.<sup>2/</sup> Under the Commission's proposal, equipment currently subject to the notification procedure would be subject to either the Declaration of Conformity or the verification procedure, neither of which requires Commission authorization prior to entering the marketplace.<sup>3/</sup> The Commission also proposes to relax the equipment authorization requirements for certain Part 15 unintentional radiators.<sup>4/</sup> This proposal would allow manufacturers of the specified types of equipment to file a Declaration of Conformity rather than adhere to the Commission's certification or notification procedures.<sup>5/</sup>

3. Metricom disagrees with these proposals as contrary to Congress' intent and the public interest. The purpose of Section

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<sup>2/</sup> Notice at ¶ 10. The Notification procedure is "an equipment authorization procedure issued by the Commission whereby the applicant makes measurements to determine that the equipment complies with the appropriate technical standards and reports that such measurements have been made and demonstrate the necessary compliance." Id. at ¶ 6.

<sup>3/</sup> "Verification is a manufacturer self-approval procedure where the manufacturer makes measurements or takes the necessary steps to ensure that the equipment complies with the appropriate technical standards." Id. Declaration of Conformity is a "self-approval procedure that ... calls for the manufacturer or importer of the equipment to make measurements or take other necessary steps to ensure that the equipment complies with the appropriate technical standards." Id.

<sup>4/</sup> Id. at ¶ 18 a.

<sup>5/</sup> Id.

302a of the Communications Act<sup>6/</sup> is "to empower the Commission to deal with the interference problem at its root source -- the sale by some manufacturers of equipment and apparatus which do not comply with the Commission's rules."<sup>7/</sup> Prior Commission review of applications remains essential to preventing harmful interference from equipment that does not strictly adhere to the Commission's rules. The legislative history of Section 302a demonstrates that Congress intended for the Commission to take preventative, rather than reactive, action. As the court in Computer Systems noted, prior to enactment of this legislation, "the FCC had no authority to try to control the interference potential of devices at the manufacturing level, but rather could only take action against a user of equipment when an actual instance of harmful interference had occurred."<sup>8/</sup>

4. As the Commission noted, "manufacturers are often confused as to the requirements and procedures they must adhere to."<sup>9/</sup> For that reason, the Commission should not remove itself from the equipment authorization process. The Commission need only consider the number of times a manufacturer or a certified laboratory has certified that equipment complies with the

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<sup>6/</sup> 47 U.S.C. § 302a (now 47 U.S.C. § 302).

<sup>7/</sup> Computer Systems of America v. Data General Corp., 738 F.Supp. 27, 31 (D.Mass. 1989), aff'd, 921 F.2d 386, citing 1968 U.S.C.C.A.N., p. 2486.

<sup>8/</sup> 738 F.Supp. at 31, citing 1968 U.S.C.C.A.N. at pp. 2487-2488.

<sup>9/</sup> Notice at ¶ 5.

Commission's rules only for the Commission to later find that the equipment does not comply, in order to understand the importance of Commission review of equipment applications.

5. The Commission also proposed in the Notice to reduce the amount of time parties have to respond to a Commission request for an equipment test sample from sixty to fourteen days.<sup>10/</sup> While Metricom supports this proposal because it will reduce the amount of time noncomplying equipment is in the marketplace, it should not replace Commission review of equipment before the equipment enters the marketplace.

**III. IT IS A MORE EFFICIENT UTILIZATION OF THE  
COMMISSION'S RESOURCES TO EXAMINE APPLICATIONS  
THAN TO TRACK INTERFERENCE-CAUSING EQUIPMENT**

6. Metricom also opposes the Commission's proposal to discontinue maintaining the Radio Equipment List ("List") because without the List it would be even more difficult to locate the manufacturer of interference-causing equipment, thereby increasing the amount of time that authorized equipment is forced to endure harmful interference from noncomplying equipment.<sup>11/</sup> Without some method of identifying equipment and the equipment manufacturer's location, it will be very difficult to locate the source of interference. By the time the Commission is able to take action to remove noncomplying equipment from the marketplace, substantial interference problems will have already occurred.

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<sup>10/</sup> Id. at ¶ 15.

<sup>11/</sup> Id. at ¶ 13.

7. As the Commission recognized in the context of Part 15 intentional radiators, the certification process is a more efficient use of the Commission's valuable time and resources than attempting to locate and correct numerous interference problems arising from products after they have entered the marketplace. For that reason, Metricom supports the Commission's proposal to retain the certification requirements for Part 15 intentional radiators.<sup>12/</sup>

8. Certification is also important for devices used to provide unlicensed operations pursuant to Part 15 of the Commission's rules. Unlicensed operations are difficult to locate and are required by the Commission's rules to accept interference. Consequently, the Commission may not have as much incentive to prevent unlicensed devices from causing interference once the devices have entered the marketplace. By continuing to require unlicensed devices to adhere to the Commission's certification process, interference problems arising from unlicensed operations should be minimal.

#### **IV. THE COMMISSION SHOULD MAKE ELECTRONIC FILING OPTIONAL**

9. The Commission also proposes in the Notice to provide for the electronic filing of applications for equipment authorization and requests comment on whether to require all equipment authorization applications to be filed electronically.<sup>13/</sup> While Metricom supports the Commission's attempt to decrease the

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<sup>12/</sup> Id. at ¶ 19.

<sup>13/</sup> Id. at ¶¶ 23, 25.

processing time for equipment authorization applications by providing for electronic filing, the Commission should not make electronic filing mandatory for all such applications. Applicants need to have an alternate method of filing their applications if, for any number of reasons, they are unable to submit their application electronically.

V. CONCLUSION

10. The Commission's proposal to streamline the equipment authorization process presents a double-edged sword -- the methods proposed will assist some companies who employ trained technicians having a strong familiarity with the Commission's rules by having their complying equipment reach the market sooner. The proposal will also substantially increase the likelihood that some other manufacturers will expeditiously place equipment into the marketplace that causes substantial interference. Although one of the reasons cited by the Commission for streamlining the equipment authorization process is to keep up with the "fast pace of today's telecommunications and electronics industries,"<sup>14/</sup> equipment that does not comply with the Commission's requirements is more dangerous to the advancement of new technologies than a lengthy review process.

11. Continuing to require equipment manufacturers to adhere to the same level of application review as currently provided in the Commission's rules is in the public's best interest because the Commission is in the best position to verify that

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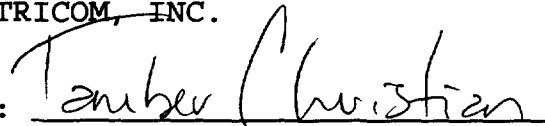
<sup>14/</sup> Id. at ¶ 5.

equipment adheres to the Commission's requirements. Furthermore, requiring all equipment authorization applications to be filed electronically does not provide a reasonable alternative for applicants and would defeat the Commission's goal of expediting, and simplifying, the equipment authorization process.

Respectfully submitted,

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